REMARKS

Claims 1-44 were previously pending in this patent application. Claims 1-44 stand rejected. Herein, Claims 1, 8, 15, 24, and 35 have been amended. Accordingly, after this Amendment and Response, Claims 1-44 remain pending in this patent application. Further examination and reconsideration in view of the claims, remarks, and arguments set forth below is respectfully requested.

35 U.S.C. Section 103(a) Rejections

Claims 1-44 stand rejected under 35 U.S.C. Section 103(a) as being unpatentable over Ice, U.S. Pat. No. 5,884,031 (hereafter Ice), in view of Ishida, U.S. Pat. No. 6,122,259 (hereafter Ishida), and in view of Chaudhuri, U.S. Pat. No. 6,600,719 (hereafter Chaudhuri). These rejections are respectfully traversed.

Claim 1 recites (as amended):

> A method of communicating broadcast information comprising the steps of:
> a) ***receiving, at a transmission scheduler, a request*** from a first user device for digital broadcast information and causing a server to communicate a first stream representing digital broadcast information to said first user device ***in response to instructions from said transmission scheduler*** wherein said server and said first user device are coupled to the Internet;
> b) receiving, at said transmission scheduler, a request from a second user device for digital broadcast information and causing said server to communicate a second stream representing said digital broadcast information to said second user device in response to instructions from said transmission scheduler wherein said second user device is coupled to the Internet;
> c) receiving, at said transmission scheduler, a request from a third user device for digital broadcast information and causing said first user device to communicate a third stream representing said digital broadcast information to said third user device in response to instructions from said transmission scheduler wherein said third user device is coupled to the Internet;
> d) receiving and rendering, concurrently, said digital broadcast information on said first, second and third user devices, wherein said

user devices form one or more communication chains, wherein each communication chain has one or more tiers, and wherein a sum of user devices in corresponding tiers of said communication chains is variable; and

e) for each user device, registering with and periodically sending status update messages to ***transmission scheduler that is separate from said server and said user devices***, wherein said transmission scheduler actively monitors, manages, and initiates ***failure-based and performance-based changes in said communication chains*** among said server and said user devices. (emphasis added)

It is respectfully asserted that the combination of Ice, Ishida, and Chaudhuri does not teach, suggest, or motivate the present invention as recited in Independent Claim 1. In particular, Independent Claim 1 recites the limitations, "***receiving, at a transmission scheduler, a request*** from a first user device for digital broadcast information and causing a server to communicate a first stream representing digital broadcast information to said first user device ***in response to instructions from said transmission scheduler***," (emphasis added), "***transmission scheduler that is separate from said server and said user devices***," (emphasis added), and "transmission scheduler actively monitors, manages, and ***initiates failure-based and performance-based changes in said communication chains*** among said server and said user devices," (emphasis added). In contrast, it is admitted in the Office Action at page 5 that Ice does not teach a transmission scheduler, which monitors and initiates changes among the server and the user devices. Further, Ishida is used to support the teaching of providing simultaneous reception and display. However, Ishida fails to teach, suggest, or motivate a transmission scheduler, which monitors and initiates changes among the server and the user devices.

Moreover, the Office Action does not provide a citation or takes Official Notice to teach, suggest, or motivate the transmission scheduler as in the

invention of Independent Claim 1. According to Independent Claim 1, the transmission scheduler is separate from the server and the user devices. At page 6 of the Office Action, it is stated that terminals periodically transmitting their operating status to a central location (e.g., a network manager) was very well know in the art at the time the invention was made. However, the central location (e.g., a network manager) is not the same as the transmission scheduler since there is no discussion that the central location (e.g., a network manager) I) receives a request from a user device for digital broadcast information and a server is caused to communicate a stream representing digital broadcast information to the user device in response to instructions from the central location (e.g., a network manager), and II) actively monitors, manages, and initiates failure-based and performance-based changes in the communication chains among the server and the user devices, as in the transmission scheduler of the invention of Independent Claim 1.

Continuing, in the Office Action (at page 6), it is stated that the limitation "transmission scheduler actively monitors, manages, and ***initiates failure-based and performance-based changes***" of Independent Claim 1 reads on Caldara, (Col. 3, lines 1-5; Col. 9, lines 1-65 & Col. 13, lines 55-65). However, Caldera is not identified as being a patent, a patent application publication, or other publication. The Examiner was notified of this issue but Applicant never received a clarification from the Examiner. Ice only has 8 columns while Ishida's Column 13 does not have lines 55-65. Further, Column 3, lines 1-5 of Chaudhuri refer to boilerplate text; Col.9, lines 1-65 of Chaudhuri only refer to failure-based changes and not to performance-based changes; and Column 13 of Chaudhuri does not have lines 55-65. Therefore, the Office Action fails to provide a citation or take Official Notice to teach, suggest, or motivate "transmission scheduler

actively monitors, manages, and ***initiates failure-based and performance-based changes***" of Independent Claim 1.

Continuing, Chaudhuri is cited as teaching a method of restoring communication in a network when a node failure has been detected. Chaudhuri discloses techniques to respond to link failures and node failures. In particular, Chaudhuri discloses one embodiment where a network restoration module (NRM) (38) runs as an individual process in each node and does not require a central controller. [Chaudhuri; Col. 5, line 66 through Col. 6, line 5]. Chaudhuri also disclose another embodiment where a Network Management System (NMS) can be used as a central location to facilitate certain functions of the NRM (38) running in each node. Id. That is, Chaudhuri is directed to restoration techniques that are controlled and initiated by each node (via the NRM (38)) or by each node (via the NRM (38)) and the NMS. Unlike Chaudhuri, the Independent Claim 1 recites a transmission scheduler that is separate from the server and the user devices (or nodes). Moreover, the transmission scheduler actively monitors, manages, and initiates failure-based and performance-based changes in the communication chains among the server and the user devices. Also, while Chaudhuri discloses techniques to respond to link failures and node failures and fails to disclose techniques to respond to link performance and node performance, the transmission scheduler initiates failure-based and performance-based changes in the communication chains among the server and the user devices. Furthermore, Ice and Ishida do not disclose a transmission scheduler that is separate from the server and the user devices and that actively monitors, manages, and initiates failure-based and performance-based changes in the communication chains among the server and the user devices, as in the invention of Independent Claim 1. Therefore, it is respectfully submitted that

Independent Claim 1 is patentable over the combination of Ice, Ishida, and Chaudhuri and is in condition for allowance.

Dependent Claims 2-7 are dependent on allowable Independent Claim 1, which is allowable over the combination of Ice, Ishida, and Chaudhuri. Hence, it is respectfully submitted that Dependent Claims 2-7 are patentable over the combination of Ice, Ishida, and Chaudhuri for the reasons discussed above.

With respect to Independent Claims 8, 15, 24, and 35, it is respectfully submitted that Independent Claims 8, 15, 24, and 35 recite similar limitations as in Independent Claim 1. Therefore, Independent Claims 8, 15, 24, and 35 are allowable over the combination of Ice, Ishida, and Chaudhuri for reasons discussed in connection with Independent Claim 1.

Dependent Claims 9-14, Dependent Claims 16-23, Dependent Claims 25-34, and Dependent Claims 36-44 are dependent on allowable Independent Claims 8, 15, 24, and 35 respectively, which are allowable over the combination of Ice, Ishida, and Chaudhuri. Hence, it is respectfully submitted that Dependent Claims 9-14, Dependent Claims 16-23, Dependent Claims 25-34, and Dependent Claims 36-44 are patentable over the combination of Ice, Ishida, and Chaudhuri for the reasons discussed above.

CONCLUSION

It is respectfully submitted that the above claims, arguments and remarks overcome all rejections. All remaining claims (Claims 1-44) are neither anticipated nor obvious in view of the cited references. For at least the above-presented reasons, it is respectfully submitted that all remaining claims (Claims 1-44) are in condition for allowance.

The Examiner is urged to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Please charge any additional fees or apply any credits to our PTO deposit account number: 23-0085.

Respectfully submitted,

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